

Local Authorities Election Act Review

Consultation Paper

September 2005

Introduction

The *Local Authorities Election Act* (LAEA) sets out the election processes and procedures for municipal and school board elections. It was enacted in 1983 and has not been comprehensively amended since that date. Required amendments have been made to the LAEA over time as needed.

The Minister of Municipal Affairs has committed to conducting an enhanced review of the act due to several election issues arising from the October 2004 general elections. A committee has been appointed to conduct this review, which is comprised of Mr. Ray Prins, MLA and Chair of the committee, Mr. Lloyd Snelgrove, MLA and Mr. Ron Liepert, MLA. This committee is to make recommendations to the Minister for amendments to the act by November 10, 2005, which will be released to the public no later than December 31, 2005. The recommendations will be based on the feedback from public consultation (through public meetings and written submissions) and the incorporation of recommendations from the Clark Inspection Report that have been accepted by the Minister.

The committee shall propose amendments that should take effect before the next general municipal and school authority elections in 2007. It will also propose potential amendments that should be considered subject to further research and consultation before future general municipal and school authority elections after 2007.

Principles of the Review

As part of the terms of reference for the committee, the following principles will be used to guide any recommendations put forward for potential amendments to the LAEA and its attendant regulations:

- promote integrity and public confidence in the election processes by setting appropriate election standards that result in more secure and transparent election processes;
- acknowledge and encourage the public's role and participation in the election process; and
- ensure legislation permits small and large jurisdictions to respond to their specific election process needs by permitting some discretionary procedural options within the legislation's framework.

Local Authorities Election Act Review Stakeholder Consultation

106-02135/

The Minister of Municipal Affairs has committed to conducting an enhanced review of the Local Authorities Election Act due to several election issues arising from the October 2004 general elections. An MLA committee has been appointed to conduct this review.

The committee will be collecting input in order to ensure municipal and school authorities have appropriate election standards that will assist with integrity and public confidence in the system. The committee is to make and submit its recommendations for amendments to the act and its regulations to the Minister by November 10, 2005. The recommendations will be based on the feedback from public consultation (through public meetings and written submissions) and the incorporation of recommendations from the Clark Inspection Report.

To address the committee at one of the public meetings, you can register online by clicking on the following link; **LAEA Public Meeting On-line Registration**. You will receive a confirmation e-mail of your attendance and presentation time at the requested session. The deadline for registrations will be three days prior to the scheduled meeting date. Public meetings will be held across the province in:

Bonnyville	September 28, 2005	2-4 p.m. and 7-9 p.m.
Grande Prairie	September 29, 2005	2-4 p.m. and 7-9 p.m.
Calgary	October 5, 2005	7-9 p.m.
	October 6, 2005	10 a.m.-noon
	November 1, 2005	2-4 p.m. and 7-9 p.m.
Fort McMurray	October 13, 2005	1-3 p.m.
Edmonton	October 11, 2005	7-9 p.m.
	October 12, 2005	10 a.m.-noon
	October 18, 2005	7-9 p.m.
Red Deer	October 31, 2005	2-4 p.m. and 7-9 p.m.
Lethbridge	November 2, 2005	2-4 p.m. and 7-9 p.m.
Medicine Hat (New Date)	November 8, 2005	2-4 p.m. and 7-9 p.m.

The consultation paper and questionnaire provided in the two links below are intended to present proposals to address identified issues and to receive stakeholder input. All feedback received is public information.

- Local Authorities Election Act Review – Consultation Paper
This paper gives a brief overview of the proposals identified by other

stakeholders.

- Questionnaire

Provide the committee with your opinions and comments on the proposals.

Please respond with your comments by October 28, 2005, to:

Cathy Muth, Legislative Advisor
Municipal Services Branch
Alberta Municipal Affairs
17th Floor, 10155 – 102 Street
Edmonton, Alberta T5J 4L4
Phone: (780) 427-2225 (dial 310-0000 for toll free access outside Edmonton)
Fax: (780) 420-1016 E-mail: cathy.muth@gov.ab.ca

Identified Issues for Review

Under its terms of reference the committee is required to address and recommend on the appropriateness of the provisions of the LAEA and its regulations in regard to the following election issues:

1. special ballot provisions;
2. voter identification requirements;
3. the returning officer's authority to decide on and deal with alleged contraventions;
4. the campaign process, including its fairness and transparency;
5. candidate eligibility if previously convicted of a crime under the Criminal Code, and/or the process to disclose this information;
6. the prescribed offence provisions, in light of new election processes being adopted;
7. the possibility of developing common terminology to be used in the statutes and regulations governing both provincial and local elections;
8. the term of office of elected municipal and school officials; and
9. any other factors identified by stakeholders during the review process.

This consultation document deals with each of the above matters under separate headings. Within each section, a brief overview of the issue is presented first, followed by one or more proposed provisions for review and consideration.

For the convenience of readers, a stakeholder questionnaire can be accessed on the separate link off of the Alberta Municipal Affairs website.

All submissions to the committee will be considered public information.

1. Special Ballot Provisions

The 2004 general elections allowed an elected authority the discretion to use special ballots for voters who were unable to vote at an advance vote or on election day due to a physical incapacity, absence from the jurisdiction or because they were an election official.

The use of special ballots has come under scrutiny because of the alleged fraudulent voting activity that occurred in Ward 10 in the City of Calgary in the 2004 general election. Also since the 2004 election was the first time the use of special ballots was permitted, the process should be reviewed for possible amendments. Several amendments to this process were recommended under the Clark Inspection Report into the Ward 10 special ballot process.

It is proposed that the following amendments be made to the special ballot process:

- 1. the elected authority must make a resolution providing for the use of special ballots 6 months prior to election day;**
- 2. if special ballots are used, a voters list must be produced in order to verify a voters identity;**
- 3. applications for special ballots be permitted via e-mail, facsimile, telephone or in writing if the individual is on the voters list, or otherwise must appear in person;**
- 4. only 2 applications for special ballots be permitted per address;**
- 5. applications for special ballots will only be accepted if made 5 or more days prior to election day; and**
- 6. special ballots must be received by the returning officer by 4 p.m. on election day.**

2. Voter Identification

Currently voters are not required to produce any identification for general elections and the use of voter lists are at the discretion of the municipality. Voters are required to make a statement of eligibility if there is no voters' list or if their name is not on the list.

Voter identification and voter lists have become an issue due to alleged voter fraud, under age voters and inconsistent processes with the provincial and federal elections also held in 2004. The Clark Inspection Report into the City of Calgary Ward 10 election also recommended that a provision that may allow an election officer to require a voter to produce identification in order to vote be added.

It is proposed that the election officer be given the discretion to require a voter to produce 2 pieces of identification (i.e. Alberta drivers licence,

Alberta health insurance card, or any 2 pieces of identification to the satisfaction of the presiding election officer).

3. Returning Officer's Authority to Deal with Alleged Contraventions

Currently no clear direction or authority exists under the LAEA regarding how a returning officer should deal with an alleged contravention of the election process. Two major processes that tend to be prone to contraventions of the act are the nomination process and the voting process. The act requires a returning officer to accept a nomination paper when it is completed and filed during the specified time period. The act requires a ballot to be provided to a voter if he or she makes the prescribed statement and further that any ballot received in accordance with the election processes be included in the count.

There is no authority or process for a returning officer to refuse to file a candidates' nomination paper or to refuse to provide a ballot to an individual if the election officer doubts the eligibility of the voter or candidate.

However, it is an offence if a returning officer or deputy takes or receives a vote in contravention of the act.

The issue of accepting ballots that were questionable occurred regarding a number of special ballots during the City of Calgary Ward 10 election.

It is proposed that as part of the nomination process, a candidate must confirm in writing to be attached to the nomination papers that the person is eligible to be nominated in accordance with the act. Further the candidate must produce 2 identification/residency documents similar to the documents proposed to be required for voter identification (i.e. drivers license, utility bill, etc.) to the satisfaction of the returning officer.

It is proposed that the returning officer be given the authority to reject a ballot, which would be an offence to count as specified under section 149(a) of the act.

4. Campaign Process

The LAEA contains no restrictions on the amount a candidate may receive in contributions from any one person or organization during an election or any disclosure of the same.

In recent elections it has become an issue that no disclosure of campaign contributors is required or any capping on contributions.

It is an offence on election day to display campaigning materials inside, outside or within a building used for a voting station any.

Some candidates have however, used the boulevard or area in front of a voting station or parking lot to display campaign material on election day.

It is proposed that contributions by any person, corporation, trade union or employee organization to a candidate shall not exceed \$2,000.

It is proposed that all contributions received by a candidate exceeding \$375 be required to be disclosed.

It is proposed that the act be amended to include restrictions on the posting of any campaigning material outside the building, or in or beside the walkway, boulevard or parking lot where a voting station is located.

5. Candidate Disclosure of Criminal Records

There are no requirements that require candidates to disclose personal information as part of the nomination process.

In recent years, some members of the public have questioned whether it is proper for a person with a criminal record to become an elected representative. The Clark Inspection Report into the City of Calgary Ward 10 election also recommended that a provision be added making individuals ineligible for election if convicted of an offence under the LAEA.

It is proposed that a person who is convicted of an offence related to a controverted election under the act is not eligible for nomination for 10 years after the date of the conviction.

6. Offence Provisions

The LAEA contains specific provisions regarding offences conducted during an election prescribed under the act and assigns penalties of fines and/or imprisonment terms to those offences.

The use of special ballot voting was added in 2003 to the act. It has been argued that the offence provisions should be reviewed especially in light of the addition of new processes under the act.

It is proposed that a person who is found guilty of an offence specific to special ballot process contraventions is liable to a fine of not more than \$10,000 and/or to imprisonment for not more than 6 months.

7. Common Terminology

The LAEA prescribes the processes and procedures for municipal and school elections. The Election Act prescribes the processes and procedures for the election of provincial Members of the Legislative Assembly.

It has been noted that each act uses different terminology for similar processes, which can confuse electors. The Clark Inspection Report into the City of Calgary Ward 10 election also recommended that where possible both election acts should be amended to use common terminology (e.g. voting station vs. polling station).

Alberta Municipal Affairs will work with Elections Alberta to review the acts and regulations with a view to using common terminology where appropriate.

8. Term of Office

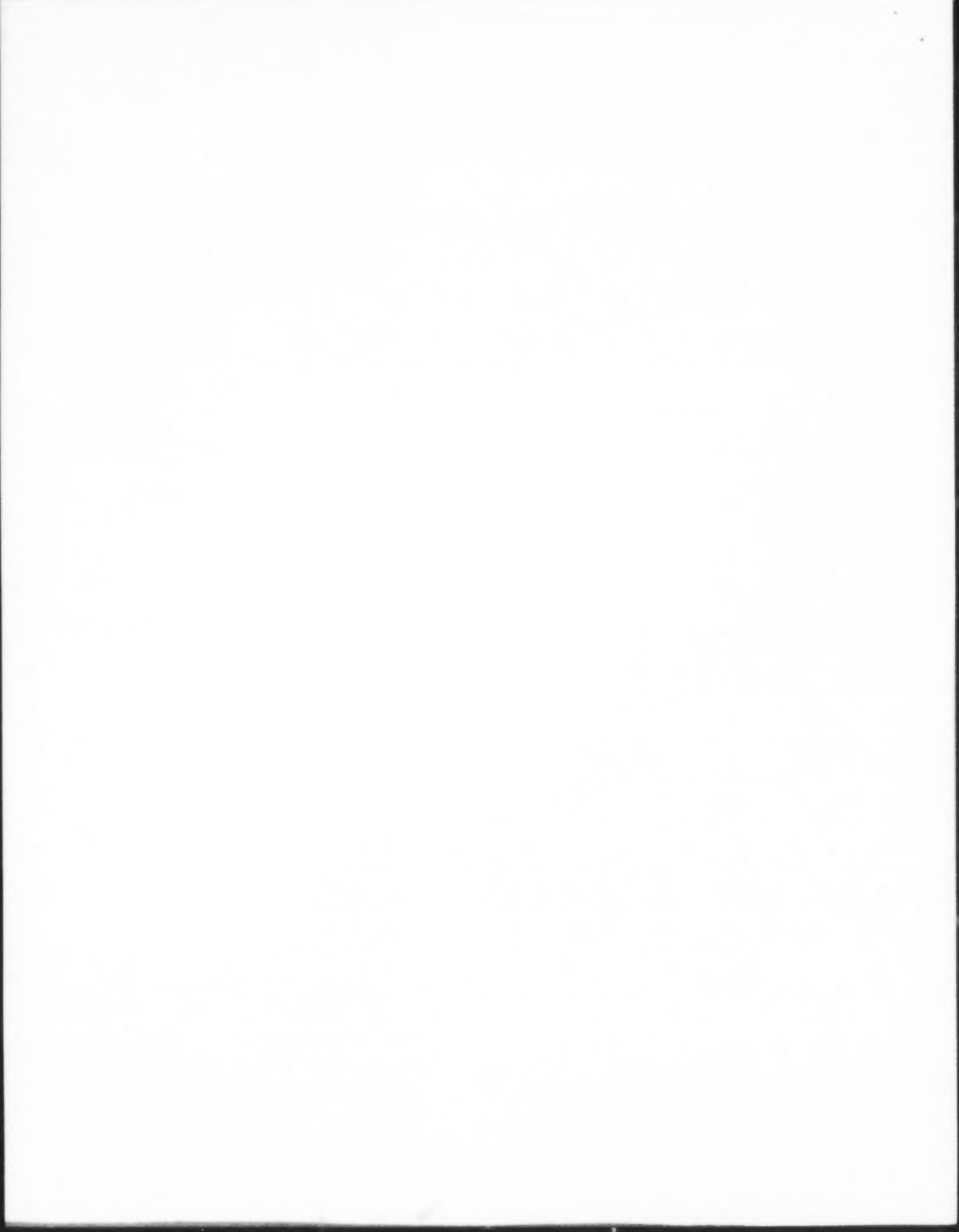
The act specifies that the term of office for members of an elected authority is three years.

Some municipalities have requested that the act be amended to provide for a four-year term of office. The most recent Alberta Urban Municipalities Association convention carried a resolution to extend the term of office for municipal elected officials to four years.

It is proposed that the act be amended to provide for four-year terms of office for members elected under the act.

9. Other Issues

Other issues brought forward by stakeholders will be reviewed by the committee, so please include those items in this area of questionnaire.



LOCAL AUTHORITIES ELECTION ACT REVIEW

Stakeholder Questionnaire

- To complete this questionnaire electronically, please click on the shaded fields (only visible on screen) and type your response. The field will expand as you type. **Save the file and return as an e-mail attachment to cathy.muth@gov.ab.ca.**
- As an alternative, the questionnaire can be printed out and completed manually and faxed to (780) 420-1016.

Respondent: _____

Organization: _____
(if applicable)

Position: _____

Street Address: _____

City/Town: _____

Postal Code: _____

Is this response the official response from your organization? ☐ Yes ☐ No
(if applicable)

INFORMATION COLLECTED DURING CONSULTATIONS

The information collected through this public consultation is being used to obtain the views and opinions of Albertans with respect to the *Local Authorities Election Act*. The information is being collected under the authority of the *Government Organization Act* and will be managed in accordance with the *Freedom of Information and Protection of Privacy Act*. All information submitted in response to this consultation will be considered to be public information and will be available to the general public. If you have any questions about the use of the information being collected, please contact Cathy Muth at (780) 427-2225.

1. Special Ballot Provisions

It proposed that the following amendments be made to the special ballot process:

1. the elected authority must make a resolution providing for the use of special ballots 6 months prior to election day;

Please indicate whether you support the proposed amendment:

(Please click only one box)

☐ Support

- ☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

2. if special ballots are used, a voters list must be produced in order to verify a voters identity;

Please indicate whether you support the proposed amendment:

(Please click only one box)

- ☐ Support
☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

3. applications for special ballots be permitted via e-mail, facsimile, telephone or in writing if the individual is on the voters list, or otherwise must appear in person;

Please indicate whether you support the proposed amendment:

(Please click only one box)

- ☐ Support
☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

4. only 2 applications for special ballots be permitted per address;

Please indicate whether you support the proposed amendment:

(Please click only one box)

- ☐ Support
- ☐ Do not support
- ☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

5. applications for special ballots will only be accepted if made 5 or more days prior to election day; and
Please indicate whether you support the proposed amendment:

(Please click only one box)

- ☐ Support
- ☐ Do not support
- ☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

6. special ballots must be returned by 4 p.m. on election day.

Please indicate whether you support the proposed amendment:

(Please click only one box)

- ☐ Support
- ☐ Do not support
- ☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

2. Voter Identification

It is proposed that the election officer be given the discretion to require a voter to produce 2 pieces of identification (i.e. Alberta drivers licence, Alberta health insurance card, or any 2 pieces of identification to the satisfaction of the presiding election officer).

Please indicate whether you support the proposed requirement of identification:

(Please click only one box)

- ☐ Support
☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

3. Returning Officer's Authority to Deal with Alleged Contraventions

- (a) It is proposed that as part of the nomination process that a candidate must confirm in writing that the person is eligible to be nominated in accordance with the act to be attached to the nomination papers.

Please indicate whether you support the proposed changes to the authority of the returning officer:

(Please click only one box)

- ☐ Support
☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

- (b) Further the candidate must produce 2 identification/residency documents similar to the documents proposed to be required for voter

identification (i.e. drivers license, utility bill, etc.) to the satisfaction of the returning officer.

Please indicate whether you support the proposed changes to the authority of the returning officer:

(Please click only one box)

- ☐ Support
☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

- (c) It is proposed that the returning officer be given the authority to reject a ballot, which would be an offence to count as specified under section 149(a) of the act.

Please indicate whether you support the proposed changes to the authority of the returning officer:

(Please click only one box)

- ☐ Support
☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

4. Campaign Process

- (a) It is proposed that contributions by any person, corporation, trade union or employee organization to a candidate shall not exceed \$2,000.

Please indicate whether you support the proposed campaign process amendments:

(Please click only one box)

- ☐ Support
☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

- (b) **It is proposed that all contributions received by a candidate exceeding \$375 be required to be disclosed.**

Please indicate whether you support the proposed campaign process amendments:

(Please click only one box)

- ☐ Support
☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

- (c) **It is proposed that the act be amended to include restrictions on the posting of any campaigning material outside the building, or in or beside the walkway, boulevard or parking lot where a voting station is located.**

Please indicate whether you support the proposed campaign process amendments:

(Please click only one box)

- ☐ Support
☐ Do not support
☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

5. Candidate Disclosure of Criminal Records

It is proposed that a person who is convicted of an offence related to a controverted election under the act is not eligible for nomination for 10 years after the date of the conviction.

Please indicate whether you support the proposed requirement for candidate disclosure of criminal records:

(Please click only one box)

- ☐ Support
- ☐ Do not support
- ☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

6. Offence Provisions

It is proposed that a person who is found guilty of an offence specific to special ballot process contraventions is liable to a fine of not more than \$10,000 and/or imprisonment for not more than 6 months.

Please indicate whether you support the proposed addition of offence provisions:

(Please click only one box)

- ☐ Support
- ☐ Do not support
- ☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

7. Common Terminology

Alberta Municipal Affairs will work with Elections Alberta to review the acts and regulations with a view to using common terminology where appropriate.

Do you have any comments on the proposal to use common terminology:

Type your comment here, (field will expand)

8. Term of Office

It is proposed that the act be amended to provide for four-year terms of office for members elected under the act.

Please indicate whether you support the proposed extension of term of office:

(Please click only one box)

- ☐ Support
- ☐ Do not support
- ☐ Conditionally support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.

Type your conditions here, (field will expand)

9. Other Issues

Do you have any other specific concerns, comments or suggestions about the Local Authorities Election Act?

Please provide your comments below.

Type your comments here, (field will expand)

- To complete this questionnaire electronically, please click on the shaded fields (only visible on screen) and type your response. The field will expand as you type. **Save the file and return as an e-mail attachment to cathy.muth@gov.ab.ca.**
- As an alternative, the questionnaire can be printed out and completed manually and faxed to (780) 420-1016.

Please respond with your comments by October 28, 2005, to:

Cathy Muth: cathy.muth@gov.ab.ca
Municipal Services Branch
Alberta Municipal Affairs
17th Floor, Commerce Place
10155 – 102 Street
Edmonton, Alberta T5J 4L4
Fax (780) 420-1016

Thank you for your participation in this important consultation process.

